

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JASON DAVID (CRD No. 6702639),

Respondent.

Disciplinary Proceeding No. 2017053669301

Hearing Officer _____

COMPLAINT

Department of Enforcement alleges as follows:

SUMMARY

1. Jason David took the Series 66 qualification examination (“the Exam”) in January and February 2017. Both times, he consulted a commercial study guide for the Exam during an unscheduled break, then changed several of his answers. He did so after acknowledging and agreeing to follow FINRA’s rules of conduct for the Exam, which prominently forbid using study materials. By consulting his study guide during the Exam when he was prohibited from doing so, David violated NASD Rule 1080 and also failed to observe high standards of commercial honor, violating FINRA Rule 2010.

RESPONDENT AND JURISDICTION

2. David was registered with FINRA as a general securities representative from November 17, 2016 to May 31, 2017.

3. David associated with National Planning Corporation (CRD No. 29604) from October 11, 2016 to May 30, 2017.

4. David has not been registered with FINRA or associated with any of its members since May 31, 2017.

5. Although David is no longer registered with FINRA or associated with any of its members, he is subject to FINRA's jurisdiction in this disciplinary proceeding under Article V, Section 4 of FINRA's by-laws because FINRA filed this complaint within two years after the termination of his registration with FINRA and the conduct at issue occurred while he was registered with FINRA.

COUNT 1

Cheating on, and possessing unauthorized materials during, a qualification examination— NASD Rule 1080 and FINRA Rule 2010

6. Department of Enforcement incorporates by reference the preceding paragraphs.

7. The Exam is designed to qualify candidates to serve as securities agents and investment advisor representatives. It covers securities laws and regulations, investment strategies and recommendations, portfolio management, characteristics of investments such as bonds and derivatives, economic concepts, and other topics.

8. The Exam comprises one hundred multiple-choice questions, plus ten unscored questions. To pass the Exam, candidates must answer 73% of the scored questions correctly. Candidates have 2.5 hours to complete the Exam. No breaks are scheduled during the Exam, but candidates may request a break solely for the purpose of using the restroom. The Exam is closed-book; no study materials are permitted.

9. In December 2016, David scheduled an appointment to take the Exam at a testing center in Chicago, Illinois on January 24, 2017.

10. On December 15, 2016, David received an email confirming his appointment from the testing center. The email stated that "FINRA requires that all candidates attest to the Rules of

Conduct, which prohibit assistance on a Exam, the use of study materials[,] and misconduct at any time during a testing event.”

11. Before taking the Exam, David read rules of conduct for the Exam. They state that “[s]tudying IS NOT allowed in the test center” and “[w]hile you are taking an unscheduled break, you are NOT permitted to access personal items other than medication required at a specific time unless you receive prior permission. Unless specifically permitted by FINRA, you MUST receive permission from the [test administrator] PRIOR to accessing personal items that have been stored, including but not limited to ... notes and study guides.”

12. On the morning of January 24, 2017, David went to the testing center for the Exam. He brought a commercial study guide for the Exam.

13. When David arrived at the testing center, he placed his study guide in a locker in the testing center’s lobby. Then, he entered the testing room and was seated at a computer terminal.

14. There, David was shown FINRA’s rules of conduct for the Exam. The first rule stated that “[f]or the duration of my examination or CE session, I will not use or attempt to use any personal items, such as ... Study Materials....” The fifth rule stated that “I understand and acknowledge that unscheduled breaks are permitted only for restroom use. If I take an unscheduled break during my session, I will not access my locker or leave the building....”

15. David attested that he would follow those rules and acknowledged that if he did not follow them he could be subject to disciplinary action and barred from the financial services industry.

16. After David made that attestation and acknowledgment, he began taking the Exam. Approximately two hours later, he took an unscheduled break.

17. During that break, David retrieved his study guide from his locker, left the testing center, and reviewed the study guide.

18. No one permitted David to retrieve or consult his study guide during his break.

19. After David consulted his study guide, he returned to the testing center and resumed taking the Exam, changing approximately nine answers and reviewing approximately three dozen other answers.

20. David failed the Exam, scoring 72.

21. Three days later, David scheduled an appointment to take the Exam again, at the same testing center on February 24, 2017.

22. On January 27, 2017, David received an email confirming that appointment from the testing center. The email stated that “FINRA requires that all candidates attest to the Rules of Conduct, which prohibit assistance on a Exam, the use of study materials[,] and misconduct at any time during a testing event.”

23. On the morning of February 24, 2017, David went to the testing center for the Exam. He brought the same commercial study guide that he used when he took the Exam in January 2017.

24. David brought his study guide to the Exam for the purpose of consulting it during an unscheduled break.

25. When David arrived at the testing center, he placed his study guide in a locker in the testing center’s lobby. Then, he entered the testing room and was seated at a computer terminal.

26. There, David was shown FINRA’s rules of conduct for the Exam. The first rule stated that “[f]or the duration of my examination or CE session, I will not use or attempt to use any personal items, such as ... Study Materials....” The fifth rule stated that “I understand and

acknowledge that unscheduled breaks are permitted only for restroom use. If I take an unscheduled break during my session, I will not access my locker or leave the building...”

27. David attested that he would follow those rules and acknowledged that if he did not follow them he could be subject to disciplinary action and barred from the financial services industry.

28. After David made that attestation and acknowledgment, he began taking the Exam. Approximately two hours later, he took an unscheduled break.

29. During that break, David retrieved his study guide from his locker, left the testing center, and reviewed the study guide.

30. No one permitted David to retrieve or consult his study guide during his break.

31. After David consulted his study guide, he returned to the testing center. In the testing center’s lobby, a proctor confronted him, asking what he had been doing. David acknowledged that he had a study guide for the Exam, and the proctor went to another room to report the incident. While she was gone, a second proctor noticed David in the testing center’s lobby and allowed him to return to the testing room to finish the Exam.

32. David resumed taking the Exam, changing three answers and reviewing nine other answers.

33. David passed the Exam, scoring 89.

34. NASD Rule 1080 states, in part, that “[a]n applicant [for a qualification examination] cannot receive assistance while taking the examination.”

35. FINRA Rule 2010, which requires registered person to observe high standards of commercial honor, prohibits possessing or consulting study materials during a qualification examination.

36. By possessing a study guide without permission while he took the Exam in January and February 2017, David violated NASD Rule 1080 and FINRA Rule 2010.

37. By consulting a study guide while he took the Exam in January and February 2017, David violated NASD Rule 1080 and FINRA Rule 2010.

38. By changing and reviewing answers to the Exam in January and February 2017 after consulting a study guide during an unscheduled break, David violated NASD Rule 1080 and FINRA Rule 2010.

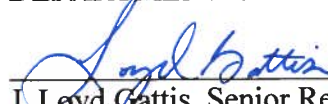
RELIEF REQUESTED

Department of Enforcement respectfully asks the hearing panel to (1) make findings of fact and conclusions of law that David violated NASD Rule 1080 and FINRA Rule 2010, as Department of Enforcement alleges; (2) impose one or more of the sanctions that FINRA Rule 8310(a) authorizes; and (3) order David to bear the costs of this proceeding that are fair and appropriate, in accordance with FINRA Rule 8330.

Date: March 23, 2018

Respectfully submitted,

DEPARTMENT OF ENFORCEMENT



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